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9  
10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 BOARD OF TRUSTEES OF THE PLUMBERS ) **No. CV 08 1170 JCS**  
13 AND STEAMFITTERS MANAGED HEALTH CARE )  
14 TRUST FUND; BOARD OF TRUSTEES OF THE ) **MEMORANDUM OF POINTS AND**  
15 U.A. LOCAL NO. 343 PENSION TRUST ) **AUTHORITIES IN SUPPORT OF**  
16 FUND; BOARD OF TRUSTEES OF THE U.A. ) **MOTION FOR DEFAULT**  
17 LOCAL NOS. 343 AND 355 DEFINED ) **JUDGEMENT BY COURT**  
18 CONTRIBUTION PLAN; BOARD OF TRUSTEES )  
19 OF THE U.A. LOCAL NO. 343 JOURNEYMAN ) **(F.R.C.P. 55 (b) (2), L.R.**  
20 AND APPRENTICE TRAINING TRUST FUND; ) **230)**  
21 AND BOARD OF TRUSTEES OF THE U.A. )  
22 LOCAL NO. 343 LABOR-MANAGEMENT ) **Date: July 11, 2008**  
23 COOPERATION COMMITTEE TRUST FUND, ) **Time: 9:00 A.M.**  
24 ) **Place: Courtroom A,**  
25 ) **15th Floor**

26 Plaintiffs,

27 v.

28 RAMCON COMPANY, INC., A CALIFORNIA )  
29 CORPORATION )  
30 )  
31 )  
32 Defendant.

33  
34 **I.**

35 **INTRODUCTION**

36 Defendant was served with Plaintiffs' complaint on March 18,  
37 2008 and the amended complaint on April 15, 2008. Plaintiffs'  
38 Request that the Clerk of the Court enter default against the  
39 defendant on the complaint and amended

1 complaint under F.R.C.P. 55(a) was filed with the Court on May 13,  
 2 2008, and the defendant's default was entered that same day.  
 3 Plaintiffs now move the Court to dispose of this matter expedi-  
 4 tiously by granting a judgment by default.

5 **II.**

6 **DEFENDANT'S FAILURE TO COMPLY WITH THE FEDERAL RULES  
 7 OF CIVIL PROCEDURE JUSTIFIES ENTRY OF A  
 DEFAULT JUDGMENT**

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8 F.R.C.P. 55(b) (2) provides that judgment by default may be  
 9 entered by the Court. Entry of default judgment on liability  
 10 issue is justified where defendant fails to comply with pretrial  
 11 orders and rules of civil procedure. Gulf Oil Co. v. Bill's Farm  
 12 Center, Inc., 449 F.2d 778 (8th Cir. 1971). Defendant has failed  
 13 to answer the complaint within the time period provided by law  
 14 such that a default has been properly entered and consequently the  
 15 defendant is deemed to have admitted to the allegations in the  
 16 complaint. Furthermore, plaintiff's entitlement to an audit of  
 17 defendant's books and records is clear under the relevant agree-  
 18 ment and case law. See, Central States, Southeast and Southwest  
 19 Area Pension Fund v. Central Transport, Inc., 472 U.S. 559, 86  
 20 L.Ed. 2d 447, 105 S.Ct. 2833 (1985). See, also, Declaration of  
 21 Lori A. Nord, filed herewith.

22 Costs and attorneys' fees are mandated by 29 U.S.C. § 1132.

23 The Court should, therefore, enter a judgment by default  
 24 against defendant as requested herein.

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III.

## **CONCLUSION**

For the reason stated above, the Court should enter a judgment by default on the merits of this case.

Respectfully submitted,

Dated: May 30, 2008

By:

LORI A. NORD  
Attorneys for Plaintiffs